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ALEXANDRIA, VA 22313-1450  
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DR. MARK M. FRIEDMAN  
C/O BILL POLKINGHORN - DISCOVERY DISPATCH  
9003 FLORIN WAY  
UPPER MARLBORO, MD 20772

In re Application of GURMAN et al :  
U.S. Application No.: 10/599,598 :  
PCT Application No.: PCT/IL2005/000369 :  
Int. Filing Date: 03 April 2005 :  
Priority Date Claimed: 04 April 2004 : DECISION  
Attorney Docket No.: 1054/17 :  
For: APPARATUS AND METHOD FOR THE :  
DETECTION OF ONE LUNG INTUBATION :  
BY MONITORING SOUNDS :

This is in response to applicant's "Correction of Application Papers" filed 14 April 2008, which is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

**BACKGROUND**

On 03 April 2005, applicant filed international application PCT/IL2005/000369, which claimed priority of an earlier United States application filed 04 April 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 13 October 2005. The thirty-month period for paying the basic national fee in the United States expired on 04 October 2006.

On 03 October 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 22 October 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 06 November 2007, applicant filed a declaration executed by four of the five named inventors.

On 20 March 2008, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the declaration was not executed by the fifth inventor.

On 14 April 2008, applicant filed the present request for status under 37 CFR 1.42.

### **DISCUSSION**

The present request for status states that the fifth inventor Arnon Cohen is deceased.

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 06 November 2007 is not executed by the legal representative of the deceased inventor and does not contain the information required by 37 CFR 1.497(b)(2).

### **CONCLUSION**

For the reasons above, the request for status under 37 CFR 1.42 is DISMISSED without prejudice.

If reconsideration on the merits of the request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Request for Status Under 37 CFR 1.42".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Bryan Lin  
PCT Legal Examiner  
PCT Legal Office

Telephone: 571-272-3303  
Facsimile: 571-273-0459